

**DURHAM, NORTH CAROLINA  
MONDAY, JUNE 18, 2007  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read proclamations declaring June 23, 2007 as Major the Bull/Durham Rising celebration for the Durham streetscape event that was presented to Jennifer Collins with Liberty Arts who made comments and July 18, 2007 as Ride to Work Day presented to George [Doc] Holiday, President of Bull City Riders, who made comments.

Council Member Stith read a Resolution Memorializing William Jesse Kennedy, III.

City Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Mayor Pro Tempore Cole-McFadden: Bull City Riders.

Relative to Supplemental Item #60, Council Member Stith urged his colleagues to call for the immediate resignation of District Attorney Mike Nifong.

Mayor Bell stated the request from Council Member Stith would be Agenda Item #61.

Council Member Brown: Bar Hearings on District Attorney Mike Nifong/timetable for resignation. He encouraged his colleagues to contact the offices of Judge Hudson and the Governor concerning the immediate departure of District Attorney Mike Nifong from the courthouse.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Baker requested that Agenda Item #2 [Resolution Fixing the Amount of the Required Filing Fees for Candidates to Municipal Office] be placed on the Consent Agenda and made comments on the items listed on the Supplemental Agenda.

**MOTION** by Council Member Stith seconded by Council Member Woodard to accept the City Manager's priority items was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell,

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Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

City Attorney Blinder made comments on Supplemental Agenda Item #60 [Duke Lacrosse Committee Members].

**MOTION** by Council Member Stith seconded by Council Member Woodard to accept the City Attorney's priority item was approved at 7:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

There were no priority items from the City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Agenda Item #22 [Durham Arts Council and Armory Renovations] was pulled.

**MOTION** by Council Member Woodard seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

#### **[CONSENT AGENDA]**

#### **SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Council Member Woodard seconded by Council Member Stith to approve City Council minutes for the May 7, 2007 City Council Meeting was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

#### **SUBJECT: RESOLUTION FIXING THE AMOUNT OF THE REQUIRED FILING FEES FOR CANDIDATES TO MUNICIPAL OFFICE IN THE CITY OF DURHAM**

**MOTION** by Council Member Woodard seconded by Council Member Stith to adopt a Resolution Fixing the Amount of the Required Filing Fees for Candidates to Municipal Office in the City of Durham was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

#### **Resolution #9466**

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**SUBJECT: DURHAM OPEN SPACE AND TRAILS COMMISSION -  
REAPPOINTMENT**

**MOTION** by Council Member Woodard seconded by Council Member Stith to reappoint Susan Willis to the Durham Open Space and Trails Commission to represent Ward 1 with the term to expire on June 30, 2010 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: HOUSING APPEALS BOARD – RECEIPT AND ACCEPTANCE OF  
APPLICATIONS**

**MOTION** by Council Member Woodard seconded by Council Member Stith to receive and accept applications for citizens to fill three (3) vacancies on the Housing Appeals Board for one (1) Regular Member to represent Neighborhood Association and two (2) Alternate Members to represent Law and At-Large with the terms to expire on June 30, 2010 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CITIZENS ADVISORY COMMITTEE – RECEIPT AND ACCEPTANCE  
OF AN APPLICATION**

**MOTION** by Council Member Woodard seconded by Council Member Stith to receive and accept an application to fill one (1) vacancy on the Citizens Advisory Committee with a term to expire on June 30, 2009 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: HUMAN RELATIONS COMMISSION - REAPPOINTMENTS**

**MOTION** by Council Member Woodard seconded by Council Member Stith to reappoint Leah Henderson and Crystal M. Hayes to the Human Relations Commission with terms to expire on June 30, 2010 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING – TWO UNNAMED ALLEYS OFF CORPORATION  
AND GURLEY STREETS – SET PUBLIC HEARING ON THE CLOSINGS  
OF 125.58 LINEAR FOOT AND 178.04 LINEAR FOOT UNNAMED  
ALLEYS (SC07-02)**

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**MOTION** by Council Member Woodard seconded by Council Member Stith to adopt a Resolution to set a public hearing on the proposed closings of two unnamed alleys off Corporation and Gurley Streets for August 6, 2007 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9467**

**SUBJECT: WATER EXTENSION AGREEMENT WITH 98-SHERRON ROAD PARTNERS, LLC - CVS #1395**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to enter into a water extension agreement with 98-Sherron Road, LLC to serve CVS #1395 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: VOLUNTEERS OF AMERICA CHDO AND FINANCING AGREEMENTS FOR TWO TRANSITIONAL HOUSING FACILITIES: LIFE HOUSE AND MAPLE COURT**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to execute a loan agreement and related documents, of up to \$400,000.00 in HOME CHDO funds to provide construction/permanent financing to the VOA Durham Life House, Inc.;

To authorize the City Manager to execute a loan agreement and related documents of up to \$300,000.00 in HOME CHDO funds to provide construction/permanent financing to VOA Durham Maple Court, Inc.; and

To authorize the City Manager to modify the agreement and other related documents before execution provided that the modifications do not increase the dollar amount of the agreement and do not lessen the obligations of the contractor was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: YMCA CDBG CONTRACT FOR PUBLIC SERVICES - ANTI-GANG ACTIVITIES - YMCA OF THE TRIANGLE AREA, INC., DURHAM BRANCHES**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the expenditure of CDBG funds in an amount not to exceed \$37,000.00;

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To authorize the City Manager to execute a 12-month Sub-recipient Contract with the YMCA of the Triangle Area, Inc., Durham Branches to provide services and programming to not less than 400 at-risk, low to moderate-income youth; and

To authorize the City Manager to make changes to the documents that do not increase the contract amount, lessen the Sub-recipient's duties or extend the term of the contract by more than an additional two (2) months was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: DENR/DURHAM LEAD GRANT AGREEMENT, THREE (3)  
ASSOCIATED SUB-CONTRACT AGREEMENTS AND STATE LEAD  
GPO FY08 - STATE OF NORTH CAROLINA DENR - DURHAM  
COUNTY HEALTH DEPARTMENT - DURHAM AFFORDABLE  
HOUSING COALITION - PARTNERSHIP EFFORT FOR THE  
ADVANCEMENT OF CHILDREN'S HEALTH (PEACH)**

**MOTION** by Council Member Woodard seconded by Council Member Stith to adopt the City of Durham Lead Hazard Control Grant Project Ordinance;

To authorize the City Manager to execute the grant agreement with the State of North Carolina DENR in the amount of \$1,225,956.00;

To authorize the City Manager to execute a subcontractor agreement with Durham County Health Department for a total amount not to exceed \$174,726.00 for lead case management by a public health nurse;

To authorize the City Manager to execute a subcontractor agreement with Durham Affordable Housing Coalition for an amount not to exceed \$100,000.00 to provide education, outreach and construction training activities;

To authorize the City Manager to execute a subcontractor agreement with the Partnership Effort for the Advancement of Children's Health (PEACH) or an eligible fiscal sponsor for an amount not to exceed \$31,500.00 to provide application intake, project management and clearance testing, subject to determination by the City Manager that PEACH either has received a 501(c) 3 determination from the IRS or that it has obtained a satisfactory fiscal sponsor; and

To authorize the City Manager to make modifications to the subcontracts before execution provided the maximum amounts available to each sub-recipient and the total of all tasks required by the agreement with the State remain consistent with the general intent of the HUD Grant was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13425**

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**SUBJECT: AIDS COMMUNITY RESIDENCE ASSOCIATION, INC. CHDO AGREEMENT, HOME AGREEMENT, AND CONSTRUCTION/PERM LOAN AGREEMENTS FOR FAMILY CARE HOME AT 815 BUCHANAN BOULEVARD**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the expenditure of up to \$150,000.00 HOME CHDO Funds to AIDS Community Residence Association (ACRA) for construction/permanent financing of 815 Buchanan Blvd;

To authorize the City Manager to execute a HOME CHDO construction/permanent Loan Agreement in an amount of up to \$75,000.00 repayable over 30 years at 2% interest and other related legal documents with AIDS Community Residence Association (ACRA);

To authorize the City Manager to execute a HOME CHDO construction/permanent Loan Agreement in an amount of up to \$75,000.00 that is deferred and forgivable for 20 years at 0% interest and other related legal documents with AIDS Community Residence Association, Inc., and

To authorize the City Manager to modify the agreements and other related documents before execution provided that the modifications do not increase the dollar amount of the agreements and do not lessen the obligations of the contractor was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: BUSINESS LOAN REPORT APRIL 2007 – SMALL BUSINESS LOAN AND DOWNTOWN AND COMMERCIAL LOAN**

**MOTION** by Council Member Woodard seconded by Council Member Stith to accept the Business Loan Report for April 2007 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO CONTRACT BETWEEN THE CITY OF DURHAM AND TRAINING FOR SUCCESS**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to execute an amendment to the Workforce Investment Act contract between The City of Durham and Training for Success; and

To authorize the City Manager to modify the contract provided that the modifications do not increase the dollar amount and the modifications are consistent with the general intent of the contract was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

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Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard.  
Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO WORKFORCE INVESTMENT ACT YOUTH  
CONTRACT BETWEEN THE CITY OF DURHAM AND ACHIEVEMENT  
ACADEMY OF DURHAM, INC.**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to execute a contract amendment with Achievement Academy of Durham to increase the contract amount to \$31,007.98 and to extend the contract completion date to June 30, 2008; and

To authorize the City Manager to modify the contract provided that the modifications do not increase the dollar amount beyond \$31,007.98 and that the modifications are consistent with the general intent of the contract was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: WORKFORCE INVESTMENT ACT YOUTH CONTRACT WITH  
COMMUNITY PARTNERSHIPS, INCORPORATED**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to execute a Workforce Investment Act Contract with Community Partnerships, Inc. in an amount not to exceed \$350,000.00; and

To authorize the City Manager to modify the contract provided that the modifications do not increase the dollar amount and the modifications are consistent with the general intent of the contract was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO WORKFORCE INVESTMENT ACT YOUTH AND  
DISLOCATED WORKER CONTRACT BETWEEN THE CITY OF  
DURHAM AND GENERAL MANAGEMENT SOLUTIONS, INC.**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to enter into a contract amendment with General Management Solutions, Incorporated to decrease the contract amount from \$766,973.00 to \$593,936.00 and to extend the contract completion date to June 30, 2008; and

To authorize the City Manager to modify the contract provided that the modifications do not increase the dollar amount beyond \$593,936.00 and that the modifications are consistent with the general intent of the contract was approved at 7:30 p.m. by the following vote: Ayes: Mayor

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Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: RESOLUTION TO ADOPT A UNIFORM TORT CLAIMS SETTLEMENT POLICY**

**MOTION** by Council Member Woodard seconded by Council Member Stith to adopt a Resolution Adopting the Uniform Tort Claims Settlement Policy was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9468**

**SUBJECT: MOTOROLA SERVICE AGREEMENT – MOTOROLA, INC.**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to execute the Radio System Service Agreement with Motorola, Inc. in the amount of \$222,981.12;

To authorize the City Manager to renew the agreement for FY 2009 and FY 2010, subject to annual appropriations; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: PEST CONTROL SERVICE CONTRACT - CLEGG'S TERMITE AND PEST CONTROL, INC. OF DURHAM, NORTH CAROLINA**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to enter into a contract with Clegg's Termite and Pest Control, Inc. of Durham, North Carolina in the amount of \$37,896.00 for two years;

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement;

To authorize the City Manager, to establish a contingency in the amount of \$3,790.00 for any unforeseen service costs, and to negotiate and execute change orders for the project provided the cost does not exceed \$41,686.00; and



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To authorize the City Manager the authority to execute contract extensions for an additional two years provided all contract requirements have been met prior to allowing an extension was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM STATION CONSTRUCTION SERVICES AMENDMENT - NO. 2 AND 2A WITH BALFOUR BEATTY CONSTRUCTION – S&ME**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to negotiate and execute Amendment No. 2 with Balfour Beatty Construction for the Early Site Package for the Durham Station Project, so long as the final Guaranteed Maximum Price (GMP) does not exceed \$2,419,835.00;

To establish a project contingency in the amount of \$120,992.00;

To authorize the City Manager to negotiate and execute Amendment No. 2A with Balfour Beatty Construction for the Steel Erection on the Durham Station project, so long as the final Guaranteed Maximum Price (GMP) for that work does not exceed \$1,128,340.00;

To establish a project contingency in the amount of \$56,417.00 and so long as the CMAR's cost estimate for the entire project is within the construction budget;

To authorize the City Manager to negotiate and execute change orders on the contract, provided the total project cost does not exceed the applicable project ordinance;

To authorize the City Manager to execute a second amendment to the contract for the professional services with S&ME in the amount not to exceed \$159,000.00 so that the total contract amount will not exceed \$261,000.00;

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the compensation to be paid by the City and do not decrease the goods and services to be provided to the City and increase the project contingency to \$15,000.00; and

To authorize the City Manager to negotiate and execute change orders on the contract project provided the total project cost does not exceed the applicable project ordinance was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT #4 TO PROFESSIONAL SERVICES CONTRACT BETWEEN THE CITY AND ROBERT W. CARR, INC. FOR THE DATA OPERATIONS, MAINTENANCE AND ADMINISTRATION FACILITY**

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**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to execute an amendment to the City of Durham DATA Operations, Maintenance, and Administration Facility Project Agreement with Robert W. Carr, Inc. in the amount of \$175,881.40 so that the total contract amount will not exceed \$1,207,081.40; and

To authorize the City Manager to make changes to the contract before executing it, if the changes do not increase the fees to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: 2007-08 BENEFITS RECOMMENDATION – BLUE CROSS/BLOCK  
SHIELD – DUKE OCCUPATIONAL MENTAL HEALTH PROGRAM –  
DELTA DENTAL – NORTH CAROLINA MUTUAL – COLONIAL –  
COMMUNITY EYE CARE – MET LIFE – PREPAID LEGAL – LAYMON  
GROUP**

**MOTION** by Council Member Woodard seconded by Council Member Stith to approve the 2007-08 Employee Benefits for the plan year September 1, 2007 through August 31, 2008 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: INTER-LOCAL AGREEMENTS BETWEEN THE CITY OF DURHAM  
AND THE TOWNS OF CHAPEL HILL AND CARRBORO FOR LOCAL  
MATCHING FUNDS FOR FEDERAL TRANSPORTATION PLANNING  
GRANTS**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to execute an Inter-local Agreement between the City of Durham and the Town of Chapel Hill for Local Matching funds for Federal Transportation Planning Grants;

To authorize the City Manager to execute an Inter-local Agreement between the City of Durham and the Town of Carrboro for Local Matching funds for Federal Transportation Planning Grants; and

To authorize the City Manager to make modifications to the agreements provided that the modifications do not increase the City's financial obligation and are consistent with the agreement approved by the City Council was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: CONTRACT AMENDMENT ST-229 SPEED HUMPS 2007 - BARRETT, IRVIN & JORDAN CONSTRUCTION, INCORPORATED**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to execute a contract amendment with Barrett, Irvin & Jordan Construction, Incorporated for Contract ST-229 for the construction of additional speed humps and increase the appropriations of \$238,461.30 by \$119,230.65 for a total of \$357,691.95; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: NCCU CONTRACT FOR STORMWATER BEST MANAGEMENT PRACTICES (BMP) DEMONSTRATION PROJECT AT WEST VILLAGE EXPANSION – NORTH CAROLINA CENTRAL UNIVERSITY**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to negotiate and execute a contract with North Carolina Central University in an amount not to exceed \$110,000.00 for the Stormwater BMP Demonstration Project at the West Village expansion project; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: NORTH CAROLINA ECOSYSTEM ENHANCEMENT PROGRAM (NCEEP) CONTRACT FOR GOOSE CREEK STREAM RESTORATION**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to negotiate and execute a contract with the North Carolina Ecosystem Enhancement Program (NCEEP) in an amount not to exceed \$200,000.00 for the Goose Creek Stream Restoration Project; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF THE FAYETTEVILLE ROAD PHASE II EXTENSION - KIMLEY-HORN AND ASSOCIATES**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to execute a Supplemental On-Call Agreement with Kimley-Horn and Associates in an amount not to exceed \$924,510.00; and

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT FOR CONTRACT SW-18, SIDEWALKS AND TRAFFIC CALMING - HOLMES CONTRACTING, INCORPORATED**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to amend contract SW-18 Sidewalks and Traffic Calming with Holmes Contracting, Incorporated by increasing the appropriation of \$565,113.45 by an additional \$282,556.73 totaling \$847,670.18 to facilitate continuation of the sidewalk repair and construction;

To authorize the expenditure from the 2005 Sidewalk Bonds; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: COMPUTER LEASE AGREEMENT AMENDMENT – EPLUS GROUP, INC.**

**MOTION** by Council Member Woodard seconded by Council Member Stith to authorize the City Manager to execute a four-year lease agreement amendment with ePlus Group, Inc. for 127 desktop computers, 94 laptops and 1 tablet in the amount of \$80,736.60 annually for four (4) years, for a total of \$322,946.40, and \$20,184.21 for the end of term transition; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:30 p.m. by the

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following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT – HARMONY ROAD II (D06-467)**

**MOTION** by Council Member Woodard seconded by Council Member Stith to approve a major site plan and preliminary plat for “Harmony Road II,” submitted by Haden Stanziale, on behalf of TAH, LLC, for a 184 lot single-family residential development with centrally located pool, clubhouse, and pocket park on 75.14 acres, zoned PDR 2.710 and F/J-B-- the site is located on both sides of Harmony Road and Ardmore Drive, west of Cook Road, east of Ketterling and Sturbridge Drives, and north of Morningside Drive-- PIN 0729-01-25-0462, 1133, 1493, 2184, 2484, 3454, 4105, 4464, 5105, 5465, 6415, 7096, 7176, 7203, 8110, 8233, 0729-01-15-1121, 1389, 2181, 2480, 3480, 4101, 5102, 5181, 5411, 6172, 6441, 7432, etc. was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN – AMPLE STORAGE II (D06-642)**

**MOTION** by Council Member Woodard seconded by Council Member Stith to approve a major site plan for “Ample Storage II,” submitted by Horvath Associates on behalf of The Electric Company, for a two-story, 300 unit self storage facility with 105 motor vehicle parking spaces on a 1.294 acre site zoned CG. The applicant is requesting approvals of: (1) 6.25% (984 square feet) of fill in the floodplain pursuant to Section 8.4.4 Development in Special Flood Hazard Areas; (2) payment-in-lieu for sidewalk construction along the proposed service road running across the south side of the project pursuant to Section 12.4.6 Payment-in-Lieu; and (3) a landscape variation pursuant to Section 9.1.3 [Landscaping and Buffering] Variations to allow placement of the northern boundary buffer 33 feet away from that property line due to an existing paved driveway along the same property line—the property is located at 4217 Garrett Road, on the east side of Garrett Road, south of Durham Chapel Hill Boulevard, and north of Old Chapel Hill Road, PIN 0800-04-74-5502 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: 2007 GENERAL OBLIGATION BOND REFERENDUM – LOCAL GOVERNMENT COMMISSION**

**MOTION** by Council Member Woodard seconded by Council Member Stith to adopt a resolution directing the publication of notice of intention to apply to the LGC for approval of bonds;

To adopt a resolution authorizing the Finance Director to apply to the LGC for approval of the City’s proposed GO bond financing; and

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To adopt a resolution making certain statements of fact concerning the proposed bond issue was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #s 9469 – 9470 - 9471**

**SUBJECT: 2009-2015 TRANSPORTATION IMPROVEMENT PROGRAM (TIP)  
PRIORITY LIST**

**MOTION** by Council Member Woodard seconded by Council Member Stith to adopt a “Resolution to Endorse the City of Durham's Project Priority List for the FY 2009-2015 Transportation Improvement Program” was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9472**

**SUBJECT: DURHAM CONVENTION AND VISITORS BUREAU – TOURISM  
DEVELOPMENT AUTHORITY**

**MOTION** by Council Member Woodard seconded by Council Member Stith to appoint Ronald J. Hunter representing “Full Service” to the Durham Convention and Visitors Bureau Tourism Development Authority as recommended by the DCVB Board of Directors – term expiring December 31, 2008 was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**[SUPPLEMENTAL ITEM]**

**SUBJECT: RESOLUTION MEMORIALIZING WILLIAM JESSE KENNEDY, III**

**MOTION** by Council Member Woodard seconded by Council Member Stith to adopt a Resolution Memorializing William Jesse Kennedy, III was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9473**

*The City Council disposed of the following agenda items at the June 7, 2007 Work Session:*

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**25. Proposed Lease Between City of Durham and Venable Tenant, LLC.**

To authorize the City Manager to execute the lease agreement, City as Tenant, with Venable Tenant, LLC, to lease office space at 302 E. Pettigrew Street contingent upon the lease term for EO/EA to begin August 27, 2007 and the lease term for OEWD to begin January 1, 2008 and both lease terms ending August 31, 2014; and

To authorize the City Manager to make changes to the lease prior to execution provided the changes do not change the intent of the agenda memo or increase the rental expenses payable to the landlord.

*Note: This item was approved at the 6/7/07 Work Session with a vote of 5/0 for Alternative #1.*

**34. Update on the Implementation of the 10-Year Plan to End Homelessness in Durham**

To receive an update from Durham Affordable Housing Coalition regarding the implementation of the 10 Year Plan to End Homelessness in Durham.

*Note: A presentation was received at the 6/7/07 Work Session.*

**35. The Community Family Recreation and Life Center at Lyon Park**

To receive a presentation on The Community Family Recreation and Life Center at Lyon Park.

*Note: A presentation was received at the 6/7/07 Work Session.*

**45. Emorywood Estates Community Association**

To receive comments from Thelma White concerning storm water ditches.

*Note: Comments were received at the 6/7/07 Work Session.*

**46. Kenneth Hish**

To receive comments from Kenneth Hish regarding a drainage ditch in front of his home.

*Note: Comments were received at the 6/7/07 Work Session.*

**47. Upper Neuse River Basin Association**



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To receive comments from Sarah Bruce regarding the Upper Neuse River Implementation.

*Note: Comments were received at the 6/7/07 Work Session.*

**48. Marbrey Landing Homeowners' Association**

To receive comments from Jesse Kenyon concerning basketball goals.

*Note: Comments were received at the 6/7/07 Work Session*

**49. Joel Fairey**

To receive comments from Mr. Joel Fairey concerning portable storage units.

*Note: Comments were received at the 6/7/07 Work Session.*

**50. Incorporation of Rougemont**

To discuss the incorporation of Rougemont; and

To notify the Durham Delegation of the Durham City Council's opposition to House Bill 1147 regarding the incorporation of Rougemont.

*Note: This item was approved at the 6/7/07 Work Session with a vote 5/0.*

**51. Proposed Sale of Property at 518-A Eastway Avenue PIN# 0831-10-45-4470 and 1407 Taylor Street PIN# 0831-14-45-7026**

To authorize the City Manager to terminate the offer to purchase and contract with Mr. Edward Chambers for the unit located at 518-A Eastway Avenue;

To determine the properties at 518-A Eastway Avenue and 1407 Taylor Street to be surplus;

To authorize the sale of the properties under the authority of Section 86 of the City Charter;

To accept the offers to purchase for the properties located at 518-A Eastway Avenue and 1407 Taylor Street;

To authorize the City Manager to sell and the Mayor to convey the properties by a non-warranty deed; and

To authorize the City Manager to terminate the contract for sale if the terms are not fulfilled.



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(Resource Person: Richard Valzonis – 4570 ext. 226) (Attachment #51 - 3 pages) (PR# 4131)

*Note: This item was approved at the 6/7/07 Work Session with a vote 5/0.*

**55. Stormwater Quality**

To receive a presentation from Stormwater Services on upcoming stormwater quality requirements in Durham.

*Note: A presentation was received at the 6/7/07 Work Session.*

**56. AHOD Worship Center**

To receive a report from the administration regarding surplus land.

*Note: A report was received at the 6/7/07 Work Session.*

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: FISCAL YEAR 2007-08 BUDGET MATTERS**

Relative to voting differently on a particular item, City Attorney Blinder stated there could be a severed motion and vote on that item.

Council Member Stith thanked staff for their hard work and raised a concern about the budget stating there are significant increases in the debt service, property taxes and fees that impact the citizens who can least afford it. During Council deliberations, he suggested a budget that provided for adequate policing and a reasonable amount of debt service that took into consideration savings that staff found.

Mayor Bell stated he would be voting no for salary increases for the Mayor [\$21,423.00] and Council Members [\$18,198] effective January 4, 2008.

Council Member Brown stated he would be voting no on the Walltown Recreation Center Pool design for \$1 million.

Mayor Bell made comments on the budget proposed by Council Member Stith noting there was no way to support many of the items and at the same time not increase taxes. He stated no one wants an increase in taxes and fees, but one cent of the increase is for the bond referendum that was passed in 2005. Also, he made comments on the half cent tax increase for increased police protection, yard waste services for everyone and free pick up of bulky items.

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Mayor Bell noted the proposed budget accomplishes many of the things heard from citizens throughout the year and it comes with a price. He stated he is comfortable with this budget, but will be voting against the salary increase for Council.

Council Member Woodard made comments in support of the budget stating that Council accomplished the goals relative to 1) crime [increased police officers (12) /911 officers (8)], 2) core services [parks, roadside/appearance, comprehensive yard waste program; pay for performance for employees] and 3) bond debt services. He stated this budget provides for a safer, cleaner and a more economically viable Durham--all at less than the rate of inflation.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the FY2007-08 City of Durham Budget Ordinance, Capital Improvement Plan Ordinances and Other Related Ordinances was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

Mayor Bell made comments on the non-city agency process.

**a) Fees**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a resolution superseding resolution # 9365 approving Parks and Recreation fee changes was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Resolution #9474**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a resolution establishing or revising fees and charges for Payment-in-lieu for sidewalks was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Resolution #9475**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a resolution establishing or revising fees and charges by the Public Works Department for Stormwater Permits was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Resolution #9476**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a resolution establishing or revising fees and charges by the Public Works Department for

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development related activities was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Resolution #9477**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt an ordinance amending Durham City Code Section 23-41, Monthly Rates for Water Service, Sewer Service, and Water and Sewer Service was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13426**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt an ordinance amending Durham City Code Section 23-40.1, pertaining to Water and Sewer Capital Fees was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13427**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a resolution detailing parking rates in parking facilities was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Resolution #9478**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a resolution establishing fees and surcharges charged by the Durham Planning Department was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Resolution #9479**

**b) Non-City Agency Contracts**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to execute Non-City Agency contracts as recommended and to make amendments to the Non-City Agency contracts that do not increase the contract sum was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**FY 08 NCA FUNDING**

<b>38 Agencies</b>	<b>Proposed Funding</b>
Achievement Academy of Durham	\$ 5,100
African American Dance Ensemble	27,075
American Dance Festival	56,858
Big Brothers Big Sisters of the Triangle	25,388
Carolina Theatre	559,389
Center for Documentary Studies	8,100
Communities in Schools of Durham	4,750
Doc Arts/ Full Frame	39,503
Downtown Durham Athletic Association	4,500
Durham Affordable Housing	73,157
Durham Arts Council	581,000
Durham Central Park	4,590
Durham City-County Crimestoppers Program	28,000
Durham Community Land Trustees	5,000
Durham Community Penalties Program	20,000
Durham Companions Mentoring Program	4,750
Durham Crisis Response Center	17,418
Durham Literacy Center	14,000
Durham P.R.O.U.D. Program	15,676
Durham Striders Track Club	33,000
Durham Symphony	14,450
El Centro Hispano	31,000
Good Work	27,000
Historic Preservation Society of Durham	25,000
John Avery Boys & Girls Club	10,000
Mallarme Chambers Players	8,123
Operation Breakthrough	10,000
Project Graduation of Durham	9,000
Schoolhouse of Wonder	24,225
Scrap Exchange	14,592
SeeSaw Studio	7,000
Senior Counseling & Employment	9,155
St. Joseph's Historic Foundation	292,000
Students United for a Responsible Environment	4,500
Training for Success/New Horizons	58,975
Victorious CDC	10,000
Volunteer Center of Greater Durham	13,986
Walltown Children's Theatre	17,100
<b>TOTAL NCA FUNDING IN FY 07-08</b>	<b>\$2,113,360</b>

**c) Capital Project Ordinances**

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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham General Capital Improvements Projects Ordinance Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13428**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham Water and Wastewater Capital Improvements Project Ordinance Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13429**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham Stormwater Capital Improvements Project Ordinance Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13430**

**d) Grant Project Ordinances**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham Employment and Training Grant Project Ordinance July 1, 2007 – June 30, 2009 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13431**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham and North Carolina Department of Transportation Section 104(F) and Section 133(B)(3)(7) Transportation Planning Grant Project Ordinance was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13432**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham Grant Project Ordinance Fiscal Year 2007-08 Transit Planning and Capital Grants was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

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Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13433**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a revision of grant project ordinance #13275 the City of Durham Grant Project Ordinance Fiscal Year 2006-07 Transit Planning and Capital Grants was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13434**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham Grant Project Ordinance Fiscal Year 2007-08 North Carolina Department of Transportation Transit Intern Grant was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13435**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham and U.S. Department of Justice Federal Asset Forfeiture Funds Grant Project Ordinance Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13436**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham and State of North Carolina Controlled Substance Abuse Funds Grant Project Ordinance Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13437**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham and U.S. Department of Justice 2007 Bulletproof Vest Partnership Program Grant Project Ordinance Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13438**

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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham and Federal Task Team Initiatives Fiscal Year 2007 Grant Project Ordinance Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13439**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham and North Carolina Department of Crime Control and Public Safety Durham Cybercrime Grant 2nd Funding Grant Project Ordinance Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13440**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham and U.S. Department of Justice 2007 Justice Assistance Grant (JAG) Project Ordinance Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13441**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a revision of grant project ordinance #13279 the City of Durham and State of North Carolina Controlled Substance Abuse Funds Grant Project Ordinance Fiscal Year 2006-07 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13442**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a revision of grant project ordinance #13278 the City of Durham and U.S. Department of Justice Federal Asset Forfeiture Funds Grant Project Ordinance Fiscal Year 2006-07 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13443**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a revision of grant project ordinance #13131 the City of Durham and U.S. Department of Justice Federal Asset Forfeiture Funds Grant Project Ordinance Fiscal Year 2005-06 was



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approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13444**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a revision of grant project ordinance #13136 the City of Durham and State of North Carolina Department of Crime Control and Public Safety Durham Project Safe Neighborhoods Grant Project Ordinance Fiscal Year 2005-07 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13445**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a revision of grant project ordinance #13201 the City of Durham and State of North Carolina Department of Crime Control and Public Safety Durham Project Safe Neighborhoods Grant Project Ordinance Fiscal Year 2005-07 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13446**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a revision of grant project ordinance #13201 the City of Durham and U.S. Department of Justice 2004 Justice Assistance Grant (JAG) Project Ordinance Fiscal Year 2004-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13447**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a revision of grant project ordinance #13281 the City of Durham and U.S. Department of Justice 2006 Justice Assistance Grant (JAG) Project Ordinance Fiscal Year 2005-09 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13448**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a revision of grant project ordinance #13224 the City of Durham and Federal Task Team Initiatives Fiscal Year 2005 Grant Project Ordinance Fiscal Year 2005-06 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and



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Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith.  
Absent: None.

**Ordinance #13449**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham and the U.S. Department of Justice FY2008 Hayti Weed and Seed Initiative Year 4 Weed & Seed Grant Project Ordinance Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith.  
Absent: None.

**Ordinance #13450**

e)

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the resolution establishing Financial Plans for Internal Service Funds for Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Resolution #9480**

f)

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt the City of Durham Budget Ordinance for Fiscal Year 2007-08 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

**Ordinance #13451**

**Note:** The City Clerk announced that Mayor Bell voted no on salary increases and Council Member Brown voted no on the Walltown Recreation Center Pool design for \$1 million.

**SUBJECT: TRANSIT SERVICE FIXED ROUTE CONTRACT - MV CONTRACT  
TRANSPORTATION, INC.**

City Manager Baker informed Council that the DATA Board of Trustees voted to support the item and staff's recommendation as printed on the agenda.

Mayor Pro Tempore Cole-McFadden asked the City Manager to intervene to ensure that everyone knows their role as it relates to this contract: City staff, the contractor and the Durham Area Transit Authority Board of Trustees.

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Council Member Stith expressed concern with this item.

Deputy City Manager Ted Voorhees made comments on the ranking and justification for selecting the no. 2 ranking as the vendor for this item noting it would be a smoother transition.

City Manager Baker reported based on the discussion he had with DATA employees regarding the issues of moral and handling/maintenance of buses, etc., he felt that it was in the best interest of the rider ship and the public that the City stay with the current contractor.

Council Member Stith stated he would not be supporting this item expressing concern with the evaluation process.

Council Member Clement commented on concerns he received regarding the contractor in an effort to save money scrimped on service to enhance a profit.

City Manager Baker explained the changing of the contracting procedure highlighting the management fee/maintenance and repairs and noted regular reports will be provided to him on the quality of service.

Bodie Lyon, Regional Vice President for MV Transportation, made comments on the new contract, the condition of aged fleet and service failures.

Council Member Clement discussed the condition of buses [no air conditioning] during the home tour of the City of Durham.

City Manager Baker reported five new hybrids buses will be ordered in the upcoming budget that was approved tonight.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to execute the Contract for Management of the Durham Area Transit Authority Fixed Route Service with MV Contract Transportation, Inc. in the amount not to exceed \$124,848.00 for the initial three year term;

To authorize the City Manager to execute the two optional one-year extensions, subject to annual appropriations by the City Council;

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount and the modifications are consistent with the general intent of the proposed contract; and

To authorize the City Manager to negotiate and execute an extension to the current transit service fixed route contract provided there are no changes to the terms other than the length of time and that the extension does not exceed three months was approved at 8:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement and Woodard. Noes: Council Member Stith. Absent: None.

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**[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]**

**SUBJECT: ZONING MAP CHANGE – 7315 FAYETTEVILLE ROAD (Z07-18) –  
RUCKER-HINING PROPERTIES, LLC -**

To conduct a public hearing and receive public comments on the zoning map change for 7315 Fayetteville Road (Z07-18);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-18 out of RR; F/J-B and placing same in and establishing same as RR; -TO, F/J-B--the site is located at 7315 Fayetteville Road, east side of Fayetteville Road, south of Massey Chapel Road, PINs: 0718-04-70-3998, -3614 (partial); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Denial, 9-3 on May 8, 2007. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission does not believe this request is reasonable or in the public interest in light of the information in the staff report and comments received during the public hearing. The Commission recommends denial based on problems with traffic congestion and inadequate transportation infrastructure, inconsistency with neighboring land uses and opposition from the community.

City/County Planning Director Frank Duke noted he has the required notifications and affidavits that public notice was provided for all public hearings items as required by North Carolina statutes.

Mr. Duke briefed Council on the staff report highlighting the uses for transitional office overlay [TO]. He noted staff is recommending approval determining that this request is consistent with the Comprehensive Plan, compatible with other uses in the area and there is infrastructure in place to support this use. He noted the Planning Commission recommended denial citing

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problems with traffic congestion, inadequate transportation infrastructure, inconsistency with neighboring land uses and opposition from the community.

Mayor Bell opened the public hearing.

### **Proponents**

George Stanziale, representing the applicant, spoke in support of this item commenting on the transitional office overlay [TO]. Mr. Stanziale noted the TO provides for an orderly transition of land use from office to residential, not intended to be a large traffic generator and is meant to reduce traffic time. He stated there is no TIA required for this request. He gave a power point presentation highlighting the following key points: site adjacent to existing day care; no retail is allowed; traffic will be minimal; transportation improvements; school impact; no parking along Fayetteville Road would be allowed; no buildings larger than 5,000 square feet; trees removed by the prior owner; design guidelines does not allow for a development plan. Also, he provided Council with a letter of support from the New Life Christian Center.

Mike Hining, of 501 Washington Street/owner, spoke in support of this zoning map change. He made comments on the existing uses which are not suitable for the site and stated what is being proposed is a good compromise.

Jennifer Rosbrook, of 7317 Fayetteville Road/Campus Pre-School, spoke in support of the zoning map change. She noted there has not been any traffic incident or complaint about safety at the entrance of the school and look forward to the possibility of a pediatrician's office and other offices close to the school and to their homes providing the needed services without traveling a greater distance.

Sherry Rucker, of 1838 Country Lane/owner, read a letter of support from Vanessa Thomas, Executive Administrator with the New Life Christian Center and Child Development Center adjacent to the school.

Steve Foreman, of 5513 Pelham Road, spoke in favor of this request. He noted this project will begin to provide much needed property tax revenues while ensuring that his surrounding neighbors might someday have an opportunity to reverse the current environment of bubbling raw sewage, burned out housing and cars and hopelessness that exists directly adjacent from the glamorous Streets of South Point Mall. He urged Council to support this zoning map change and begin a true renaissance from a cesspool to a fountain of opportunity.

George Stanziale, representing the owner, made comments on the height of the proposed buildings.

### **Opponent**

Pat Bocckino, of 7340 Abron Drive, spoke against this zoning map change expressing concern with the traffic configuration. She raised a concern with previous developers coming back to

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Council at a later date requesting another zoning change in the South Point area. She urged Council to keep the areas south of Massey Chapel Road residential.

Mayor Bell closed the public hearing.

Council Member Catotti asked staff how much of the conceptual drawings is guaranteed by the developer.

For clarification, Mr. Duke made comments on how the height of building is calculated and noted there is no way to guarantee that these structures would be one story. Mr. Duke stated Mr. Stanziale has shown a representation of what is proposed that they would be bound by the ordinance with the exception of the height issue [single story] and the limitation on the number of driveways. Mr. Duke discussed uses allowed under the transitional overlay designation. Also, he discussed the issue of upcoming developments in the area.

Council Member Catotti shared concerns expressed by the Planning Commission and the community about commercial and office creep moving down Fayetteville Road and the future change in property coming back to be rezoned. She stated she supports the current zoning of residential and would be voting against this item.

City/County Planning Director Frank Duke reported this transitional office overlay is a zoning district created as part of the UDO that is permitted in residential uses and is consistent with the Comprehensive Plan. He noted the Planning Commission did find this request consistent with the Comprehensive Plan. He stated sidewalks are required under Article 12 of the Unified Development Ordinance.

Council held discussion on sidewalks, heights, uses allowed, zoning change, context map, upcoming projects near site, clear cutting, no committed elements and access.

Mayor Bell asked the applicant do they plan on asking for an additional entrance on Fayetteville Road and if the project would be two-stories.

George Stanziale, representing the applicant, replied no.

City/County Planning Director Frank Duke stated you cannot have committed element without a development plan and there is no way to add a development plan to an overlay.

Mayor Bell asked the applicant who is doing the development.

Mike Hining, the owner, stated they do not intend to flip it, but intend to develop it.

**MOTION** by Council Member Stith seconded by Council Member Brown to conduct a public hearing to receive public comments on the zoning map change for 7315 Fayetteville Road (Z07-18);

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To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-18 out of RR; F/J-B and placing same in and establishing same as RR; -TO, F/J-B--the site is located at 7315 Fayetteville Road, east side of Fayetteville Road, south of Massey Chapel Road, PINs: 0718-04-70-3998, -3614 (partial); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:09 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement, Stith and Woodard. Noes: Mayor Bell and Council Member Catotti. Absent: None.

**Ordinance #13452**

**SUBJECT: ZONING MAP CHANGE – HWY 54 CONDOMINIUMS (Z07-17) – PHIL KOCH, EARTHCENTRIC ENGINEERING, INC.**

To conduct a public hearing and receive public comments on the zoning map change for Hwy 54 Condominiums (Z07-17);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-17 out of CN and placing same in and establishing same as OI--[the site is located at 1612 East NC 54, on the south side of NC 54, east of Blanchard Road. PIN: 0728-04-83-1286 (partial)]; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 9-3 on May 8, 2007. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report and comments received during the public hearing.

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City/County Planning Director Frank Duke briefed Council on the staff report noting this is a request for a down zoning. He stated this request is consistent with the Comprehensive Plan, staff and the Planning Commission recommended approval of this item.

Mayor Bell opened the public hearing.

**Proponent**

Phil Koch, representing the applicant, spoke in favor of this zoning map change. He outlined the purpose of this request is to change the zoning so that there could be a consistent zoning with the adjacent property. He stated adjacent neighborhoods have expressed no opposition to this request.

No one spoke in opposition to this zoning map change.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Woodard to conduct a public hearing to receive public comments on the zoning map change for Hwy 54 Condominiums (Z07-17);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-17 out of CN and placing same in and establishing same as OI--[the site is located at 1612 East NC 54, on the south side of NC 54, east of Blanchard Road. PIN: 0728-04-83-1286 (partial)]; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13453**

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT-  
OUTDOOR LIGHTING STANDARDS (TC06-13)**

City/County Planning Director Frank Duke briefed Council on the text amendment concerning outdoor lighting standards. He noted this ordinance revision will address the goal of crime prevention, increase lighting standards for canopy and vehicle sales & display. He stated this request is consistent with other lighting standards applied in other jurisdictions in the Triangle. He stated staff and the Planning Commission recommended approval of this item.



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Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Woodard to conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change – Outdoor Lighting Standards (TC06-13); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Article 7 to revise the outdoor lighting standards was approved at 9:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13454**

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT – TECHNICAL CHANGES III (TC06-18)**

City/County Planning Director Frank Duke briefed Council on the technical corrections to the Unified Development Ordinance. He noted the Planning Commission and staff have recommended approval of this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Woodard to conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change - Technical Changes III (TC06-18); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Article 3, Applications and Permits; Article 5, Use Regulations; Article 6, District Intensity Standards; Article 9, Landscaping and Buffering; and Article 16, Definitions was approved at 9:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13455**

**SUBJECT: STREET CLOSING – GRUNDY STREET – TO PERMANENTLY CLOSE A 546.71 LINEAR FOOT PORTION OF THE GRUNDY STREET RIGHT-OF-WAY (SC06-08)**



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City/County Planning Director Frank Duke briefed Council on the street closing. He stated this item has been evaluated by staff and all associated review agencies have determined that there would be no impact on services for the street closing provided the City retaining a 30-foot sanitary sewer easement that is currently in the right-of-way. He stated staff is recommending approval subject to the retention of that required easement.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Woodard to conduct a public hearing to receive public comments on the closing of a 546.71 linear foot portion of Grundy Street, north of Denton Street and south of Ebon Road; and

To adopt an Order permanently closing a 546.71 linear foot portion of Grundy Street, north of Denton Street and south of Ebon Road, conditioned on the recombination of lots and the dedication of easements for such property deemed sufficient by the City was approved at 9:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13456**

**SUBJECT: STREET RENAMING – NORTH BUCHANAN BOULEVARD TO GUESS ROAD (SN07-02)**

City/County Planning Director Frank Duke briefed Council on the street renaming.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Woodard to conduct a public hearing to receive public comments on renaming a section of North Buchanan Boulevard to Guess Road; and

To approve the request to rename a section of North Buchanan Boulevard to Guess Road, extending north approximately 350 feet from the intersection with West Club Boulevard was approved at 9:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CITY'S PROPOSED USE OF THE 2007 EDWARD J. BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FUNDS**

City Manager Baker briefed Council on the staff report for this item.

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Mayor Bell opened the public hearing.

Victoria Peterson requested that funds be utilized to work with ex-offenders on the fiber optic initiative. She also asked Council to establish a task force to review how federal dollars could be utilized for crime and crime prevention.

Mayor Pro Tempore Cole-McFadden asked Ms. Peterson to provide a copy of the budget proposal for the initiative to the City Clerk.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Catotti to receive public comments on the City's proposed use of the 2007 Edward J. Byrne Memorial Justice Assistance Grant (JAG) Funds; and

To authorize the City Manager to execute the interlocal agreement between the County and the City of Durham required for the submission of a joint application for the JAG award was approved at 9:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

#### **[SUPPLEMENTAL ITEMS - CONTINUED]**

#### **SUBJECT: CITY COUNCIL CONTINGENCY**

Assistant City Manager for Budget and Strategic Initiatives Julie Brenman outlined the purpose of this item. She noted the administration is requesting the use of funds from the City Council contingency for a public survey on their interests and attitudes concerning the proposed \$20 million bond referendum.

Council Member Stith expressed concern that the survey is extremely high.

Assistant City Manager for Budget and Strategic Initiatives Julie Brenman outlined details on how the telephone survey would be conducted in July.

Council Member Brown spoke against this item noting the poll taken in 2005 was very high and stated he does not believe in leadership by poll.

Mayor Bell made comments in support of the survey.

Mayor Pro Tempore Cole-McFadden stated she supports the survey in order to hear from the citizens, but the cost is too high. She noted there are resources available through the university community and requested the City Manager to ask the vendor to utilize young individuals to perform the work.

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Council held discussion on survey [cost—too high, type of questions and purpose].

**MOTION** by Council Member Catotti seconded by Council Member Woodard to adopt a resolution authorizing the charge in the amount up to \$25,000.00 to the contingency account of the general fund in FY 06-07 was approved at 9:40 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti and Woodard. Noes: Council Members Brown, Clement and Stith. Absent: None.

**Resolution #9481**

**SUBJECT: APPOINTMENT OF DUKE LACROSSE COMMITTEE MEMBERS**

To ratify and approve the selections made by individual Council members, and appoint Kenneth Spaulding, Roland Leary, Wilbur P. Gulley, Aurelia Sands Bell, Joseph Andrew Williams, Alice Sharpe and Belinda J. Foster to the Committee;

To appoint the City Manager as an ex-officio, non-voting member to the Committee.

City Attorney Blinder stated the motions on the agenda are to help with the functioning of the committee in carrying out the mandate from Council.

Council Member Stith expressed concern with the City Manager serving as an ex-officio member of the Duke Lacrosse Investigative Committee.

City Attorney Blinder briefed Council on who has subpoena power—City Manager or City Council.

A motion was made by Council Member Stith to ratify and approve the selections made by individual Council members, and appoint Kenneth Spaulding, Roland Leary, Wilbur P. Gulley, Aurelia Sands Bell, Joseph Andrew Williams, Alice Sharpe and Belinda J. Foster to the Committee. Motion dies for a lack of a second.

Several members of Council expressed concern with the City Manager serving as an ex-officio member.

City Attorney Blinder made comments on the issue of administering oaths.

Council Member Stith made a suggestion that if there is a need for subpoena power, the Council could call a Special City Council Meeting.

City Attorney Blinder noted there should be a designated Council Member for the Committee to contact.

**MOTION** by Council Member Stith seconded by Council Member Brown to ratify and approve the selections made by individual Council members, and appoint Kenneth Spaulding, Roland

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Leary, Wilbur P. Gulley, Aurelia Sands Bell, Joseph Andrew Williams, Alice Sharpe and Belinda J. Foster to the Committee;

To designate the Mayor as the Council contact person for the Duke Lacrosse Investigative Committee if there is a need for subpoena power – [the Committee Chair will contact the Mayor so that he can begin the process to call a Special City Council Meeting for Council to determine if a subpoena will be issued]; and

To designate the City Clerk to administer oaths was approved at 10:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: RESIGNATION OF DISTRICT ATTORNEY MIKE NIFONG**

To discuss the resignation of District Attorney Mike Nifong.

City Manager Baker read a statement from *The News & Observer* informing Council that Judge Hudson plans to suspend Durham District Attorney Mike Nifong from office on Tuesday.

A motion was made by Council Member Stith to express support for Judge Hudson's actions in an effort to continue rebuilding the community. Motion dies for a lack of a second.

Several members of council spoke in opposition to the motion made by Council Member Stith.

**Note: No action was taken by Council on this item.**

**[ITEM PULLED FROM CONSENT AGENDA]**

**SUBJECT: DURHAM ARTS COUNCIL AND ARMORY RENOVATIONS CMAR  
CONSTRUCTION SERVICES AMENDMENTS - SKANSKA USA  
BUILDING**

Victoria Peterson asked the administration is there anything in place to ensure local citizens are receiving work.

Deputy City Manager Wanda Page outlined the process used to monitor contracts. She reported project managers make site visits to ensure compliance with contracts.

**MOTION** by Council Member Clement seconded by Council Member Woodard to authorize the City Manager to negotiate and execute Amendment No. 2-C with Skanska USA Building for construction of upgrades to the Durham Arts Council if the Guaranteed Maximum Price (GMP) does not exceed \$1,390,260.58;

To establish a project contingency in the amount of \$80,387.97;

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To authorize the City Manager to negotiate and execute change orders on Amendment No. 2-C, provided the total project cost does not exceed the applicable project ordinance;

To authorize the City Manager to negotiate and execute Amendment No. 2-D with Skanska USA Building for construction of upgrades to the Durham Armory if the Guaranteed Maximum Price (GMP) does not exceed \$780,723.84;

To establish a project contingency in the amount of \$44,743.30; and

To authorize the City Manager to negotiate and execute change orders on Amendment No. 2-D provided the total project cost does not exceed the applicable project ordinance was approved at 10:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 10:29 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk